Where, as in the principal case, the suit is brought in the court which appointed the receiver, and the same court sits in both equity and law cases, it is obvious that the reason for the rule no longer exists and to require leave to be obtained first would be a mere technicality and not a matter essentially affecting the jurisdiction.

The necessity for providing means for the enforcement of claims of those who dealt with receivers carrying on a business led to the enactment of Federal laws providing that receivers appointed by Federal courts might be sued in other jurisdictions for acts done by them in the conduct of the business.[11] But in the jurisdictions following *Barton* v. *Barbour,* the rule of that case still applies to actions against Federal receivers when the claim is based on matters occurring before the receiver was appointed.[12]

T. L. H.

RULE-MAKING POWER IN ENGLAND—AMENDMENTS—An interesting example of the exercise of the rule-making power, which in England has been delegated by the legislature to a judicial committee, is to be found in a recent number of the Law Times.[1] There appears a set of amendments to the rules for the English county courts, signed by the committee of five county court judges, who have the authority to make rules, "approved" by the rule committee of the Supreme Court, and "allowed" by the Lord Chancellor, as provided by the County Courts Act of 1888.[2] The rules published contain twenty separate rules and six forms; they are dated February 19, to go into effect March 19, 1917.

No more convincing argument could be made for the superiority of judge-made rules of procedure over those made by a legislature than the following quotation of one of the rules, and of a part of the explanatory memorandum which accompanies the rules:

"19. Order XXXIII. Rule 11 is hereby annulled and the following rule shall stand in lieu thereof, viz.:

"'Subject to any directions to the contrary which may be contained in the order transferring the proceedings, damages may be claimed against the execution creditor in a proceeding by way of interpleader transferred from the High Court to a county court in the

(1884). *Contra:* Granite Co. v. Wadsworth, 115 Ala. 570 (1896); *In re* Day, 34 Wis. 638 (1874); Case v. Duffy, 86 N. Y. Supp. 778 (1904); Hetzel v. Fadner, 162 Ill. App. 639 (1911).

[11] Act of March 3, 1887, as amended by Act of August 13, 1888, U. S. Compiled Statutes, 1901, p. 582; Judicial Code of 1911, Sec. 66, U. S. Statutes at Large, Vol. 36, p. 1104.

[12] Smith v. Railway Co., 151 Mo. 391 (1899); St. Louis, *etc.,* R. R. v. Knowles, 180 S. W. 1146 (Tex. Civ. App. 1915).

[1] Vol. 142, p. 337, March 10, 1917.

[2] Sec. 164.

same manner as in an interpleader proceeding commenced in a county court.'

"Explanatory Memorandum.

"Rule 19. The present rule, Order XXXIII, Rule 11, provides that claims to damages shall not be allowed in interpleader proceedings transferred from the High Court to the County Court. This rule is based on *Oliver* v. *Lewis*, W. N. 1889, 224, in which it was held that there was no jurisdiction to allow claims for damages in such proceedings. That report gives no reasons for the decision, but from the report of the case in the County Courts Chronicle, January 1, 1889 (reprinted from the Law Times), it appears that the case was decided on the ground that as Order XXVII, of the County Court Rules, as to county court interpleaders, contained no provisions relating to transferred actions, the court had, on the construction of the Judicature Act, 1884, Section 17, and the rules, no jurisdiction to entertain such claims, no rules having been made as to such claims pursuant to that section.

"The existing rule, Order XXXIII, Rule 11, was questioned in the recent case of *Salbstein* v. *Isaacs*, 114 L. T. Rep. 235, 1916, I. K. B. 1, but was held to be *intra vires*. There seems, however, to be no sufficient reason why remitted interpleaders should be dealt with in a different manner from county court interpleaders, and Rule 19 annuls the present rule and provides that, subject to any directions to the contrary which may be contained in the order transferring the proceedings, damages may be claimed against the execution creditor in a remitted interpleader in the same manner as in an interpleader proceeding commenced in the County Court."

Here we have an illustration of a technical defect in a rule already difficult because of its technical subject matter, properly corrected by a professional body and properly explained, so that practitioners are able to understand the motives for the amendment.

Samuel Rosenbaum.

TORTS—CONSPIRACY—CONTRACT FOR "CLOSED SHOP"—During the last quarter century the courts have frequently been called upon to deal with questions arising out of the controversies between organized labor and its employers, and the law as to combinations of laboring men and the means of carrying them out has been fast developing. Although statutes were required in a number of states, it has long since ceased to be doubtful that laboring men may lawfully combine to protect their common interests, and in the furtherance of those interests may stop work together. But as to the legitimate objects of such combinations and the means which may be used, there has been and is considerable diversity of opinion. One of the issues upon which many industrial controversies are waged